

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF RHODE ISLAND

IN RE: ROBERT E. EDEN,  Debtor	Case No. 17-11055  CHAPTER 7
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**MOTION FOR ORDER DIRECTING 2004  
EXAMINATION AND PRODUCTION OF DOCUMENTS**

Joseph M. DiOrio, in and only in his capacity as the Chapter 7 trustee (the “Trustee”) of the bankruptcy estate of Robert E. Eden (the “Debtor”), pursuant to 11 U.S.C. 704(a), Fed. R. Bankr. P. 2004 and RILBR 2004-1, hereby moves this Honorable Court for an entry of an Order requiring (1) Robert E. Eden and (2) Elizabeth Eden (the “Deponents”), to appear for examination pursuant to Fed. R. Bankr. P. 2004 on a date to be identified in Notice of 2004 Examination, and further requiring the Deponents to produce any and all relevant documents, including any documents identified herein or in a Document Request served on the Deponents, not less than than (10) business days prior to their respective examinations.

**DEFINITIONS**

A. “Relates” or “relating to” means concerning, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, describing, mentioning, reflecting, analyzing, explaining, constituting, evidencing, memorializing, or pertaining to.

B. “Document” is to be construed in its broadest sense under Fed. R. Civ. P. 34, including, without limitation, any paper or other writing, any electronically stored data and any item of graphic material, however recorded, stored or reproduced.

**BACKGROUND**

1. On June 23, 2017 (the “Petition Date”), Debtor filed a voluntary petition for relief

under Chapter 7 of the Bankruptcy Code. Thereafter, the Trustee was appointed Chapter 7 trustee of the Debtor's estate.

2. The Debtor's Amended Schedule B[Doc. 24-1] lists an interest in the revocable trusts of his parents, Alvin and Elaine Eden.

3. The Debtor and his sister Elizabeth Eden are listed as trustees of their parent's revocable trusts.

4. To date, Debtor's Counsel has turned over copies of the original trust documents and amendments.

### **GROUND FOR EXAMINATION**

Federal Rule of Bankruptcy Procedure 2004(a) provides that "on motion of any party in interest, the court may order the examination of any entity." *Fed. R. Bankr. P. 2004(a)*. The examination may relate to "the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge." *Id.* Furthermore, Federal Rule of Bankruptcy Procedure 2004(d) provides that "the court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending." *Fed. R. Bankr. P. 2004(d)*.

In support of this motion, the Trustee states the following:

1. The Trustee seeks the Deponents' records regarding the assets in the revocable trusts.

2. The Deponents have or are expected to have actual knowledge of the above matters.

3. A 2004 examination and the production of documents is necessary in order for the Trustee to fulfill his duties of administering the bankruptcy estate pursuant to the Bankruptcy Code and to investigate and evaluate the Debtor's acts and conduct in connection therewith.

4. The Deponents can provide the Trustee with relevant information and documents relating to the Debtor's interest in his parents' revocable trusts that will aid the Trustee in the administration of the Debtor's bankruptcy estate.

5. Upon information and belief Robert E. Eden and Elizabeth Eden are the current trustees of the revocable trusts of Alvin and Elaine Eden. Thus, the Deponents' records should be readily available for inspection and review by the Trustee.

6. In connection with the examination of the Deponents the Trustee seeks to review and requests the production of all of the Deponents':

- a. Deponents' financial documents including but not limited to: documents relating to Deponents' interest in the revocable trusts of Alvin and Elaine Eden for the last (4) years;
- b. Documents relating to the value of the assets in the revocable trusts of Alvin and Elaine Eden for the last (4) years;
- c. Documents relating to the terms of the revocable trust; and
- d. Financial records of any transfers made to the Debtor from the revocable trusts that occurred in the last (4) years.

**WHEREFORE**, the Trustee respectfully request that this Honorable Court enter an Order:

- i. Authorizing the Trustee to conduct Rule 2004 Examinations of the Deponents;

- ii. Requiring the Deponents to appear at DiOrio Law Office on not less than fourteen (14) days' notice, to be examined pursuant to Fed. R. Bankr. P. 2004 and to produce any and all relevant documents, including those identified above and in any Document Request served on Deponents, not less than ten (10) business days prior to their examinations; and
- iii. Granting such other and further relief as the Court deems just and appropriate.

### **NOTICE**

**Within fourteen (14) days of service of this Motion for a Rule 2004 Examination, if served electronically, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006(f) if you were served by mail, or other excepted means specified, any party who objects to the examination shall serve and file an objection and/or motion for protective order with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objections or motions for protective order are timely filed, the motion for examination will be granted by the Court by endorsement order.**

Respectfully submitted:  
JOSEPH M. DIORIO, Trustee

/s/ Joseph M. DiOrio  
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Dated: December 6, 2017

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 6, 2017, I electronically filed the foregoing document in the above-captioned matter with the Clerk of the Bankruptcy Court for the District of Rhode Island using the CM/ECF system. CM/ECF participants will receive notice electronically. I further certify that I have mailed by United States Postal Service, postage pre-paid, the document to the following non CM/ECF participants:

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